



# REGULATORY FRAMEWORK GOVERNING MIGRANT WORKERS<sup>1</sup>

Updated November 2019



International  
Labour  
Organization

## PRIVATE SECTOR WORKERS

(other than domestic workers)

## DOMESTIC WORKERS

<u>KEY LEGISLATION</u>	Private Sector Labour Law, No. 6 of 2010.	Law No. 68 on Domestic Workers and Ministerial Decision No. 2194 of 2016.
<b>RECRUITMENT</b>		
<u>RECRUITMENT FEES</u>	It is not explicitly prohibited to charge recruitment fees to workers by law. <sup>2</sup>	Employers are required to pay the recruitment agency fees, which cannot be deducted from the worker's remuneration.
<u>PASSPORT CONFISCATION</u>	It is prohibited for employers to confiscate workers' passports. <sup>3</sup>	
<b>WORKING CONDITIONS</b>		
<u>CONTRACT</u>	The labour contract can be verbal or written in Arabic. The latter has to be issued in 3 copies, if written. Translations to other languages may be added.	The employment contract must be signed in the form prescribed by the Domestic Workers Department at the Ministry of Interior in both English and Arabic. <sup>4</sup>
<u>MINIMUM WAGE</u>	KWD 75 (US\$ 250) per month. <sup>5</sup>	KWD 60 (US\$ 200) per month.
<u>WORKING HOURS</u>	<p><u>The Rule</u> 8 hours per day or 48 hours per week.</p> <p><u>The Exception</u> The month of Ramadan.</p> <p>Workers are entitled to a 1 hour rest after 5 hours of work, per day.</p>	<p>Cannot exceed 12 hours per day including breaks, for a total of 72 hours per week.</p> <p>Domestic workers are entitled to an hour rest after 5 hours of work per day and a nightly rest of 8 consecutive hours.</p>
<u>REST PERIODS</u>	<p>1 day per week.</p> <p>Employers may require a worker to work during a day-off. If this occurs, a worker is entitled to at least 150 per cent of the daily rate of the basic wage, or any other compensation agreement that is more beneficial to the worker.</p>	1 day per week.

<sup>1</sup> This fact sheet was prepared by the ILO FAIRWAY Project, supported by the Swiss Agency for Development and Cooperation. It was reviewed by representatives of Migrant Forum Asia and Migrant Rights.Org.

<sup>2</sup> The Minister shall issue a resolution setting forth the procedures, documents and fees that shall be paid by the employer.

<sup>3</sup> Art. 2, 5 & 6, Kuwaiti Ministerial Decree No. 166 of 2007 Concerning the Prohibition of Confiscating Travel Documents of Workers in the Private Sector.

<sup>4</sup> The contract can be renewed annually unless the parties decided not to renew it, in which case they have to send a notice to the other party before the end of the contract within 2 months.

<sup>5</sup> PAM Ministerial decision 14/17.

<u>OVERTIME</u>	<p>Overtime provisions range from 125 to 150 per cent of the basic hourly rate.</p> <p>Overtime is limited to 2 hours per day, 6 hours per week and 180 hours per year.</p> <p>The total annual overtime days cannot exceed 90 days.</p>	<p>Overtime cannot exceed 2 hours per day.</p> <p>The domestic worker is entitled to a compensation equal to a half day wage.</p>
<u>PAYMENT OF WAGES</u>	<p>Wages must be paid on a fortnightly or monthly basis through the Wage Protection System, to an accredited bank.</p>	<p>Wages must be paid at the end of the month along with a receipt.</p> <p>The employer is charged a KWD 10 (US\$ 33) penalty for each month of delayed payment.</p>
<u>ANNUAL LEAVE</u>	<p><b><u>After 6 months of completed service:</u></b> 30 days of paid annual leave.</p>	<p>The Standard Contract for domestic workers provides a 2 month paid leave after 2 years of service.</p> <p>The employer handles return airfares.</p>
<u>OTHER REQUIREMENTS</u>	<p>Working outdoors is banned between 11:00am and 04:00pm during summer, from June until end of August, except for oil and gas workers.<sup>6</sup></p>	<p>Provide decent food, clothing and treatment at public hospitals.</p>
<u>END OF SERVICE GRATUITY</u>	<p><b><u>Employees who are paid, hourly, daily, weekly or on a piecemeal basis</u></b></p> <p>During the first 5 years of service, 10 day remuneration. More than 5 years of service, 15 day remuneration for any remaining years of service, not to exceed one years' remuneration overall.</p> <p><b><u>Concerning employees who are paid on a monthly basis</u></b></p> <p>During the first 5 years of service, 15 day remuneration. More than 5 years of service: One month of remuneration, not to exceed 18 months' remuneration overall.</p> <p>Employees with who work more than three years but less than five are entitled to half of the end of service gratuity mentioned above.</p> <p>All end of service gratuity calculations are made pro-rata.</p>	<p>1 month of wage for every year of service, at the end of the contract.</p>

## FREEDOM OF ASSOCIATION

<u>ABILITY TO JOIN TRADE UNION</u>	All workers can join a trade union. <sup>7</sup>
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<sup>6</sup> Ministerial Decree 535/2015.

<sup>7</sup> Labour Law, Articles 98 and 99.

## GRIEVANCES AND DISPUTE RESOLUTION

<u>LODGING COMPLAINTS/ RESOLVING DISPUTES</u>	<p><b><u>Conciliation</u></b> Workers must lodge a dispute at a local Public Authority for Manpower (PAM) office (6 offices across the country). A PAM investigator tries to mediate an outcome. If no settlement is reached within a month, the PAM investigator refers the case to the Civil Court (Labour Circuit).</p> <p><b><u>Judicial remedy:</u></b> Cases can be brought to the Civil Court (Labour Circuit).  All cases are free of Court fees.</p>	<p><b><u>Conciliation:</u></b> Domestic workers are required to bring disputes to the Domestic Workers' Department at the Public Authority for Manpower.<sup>8</sup></p> <p><b><u>Judicial remedy:</u></b> Cases can be brought to the Civil Court (Labour Circuit).  All cases are free of Court fees.</p>
<u>SHELTER AND PROTECTION SERVICES</u>	<p>A women's shelter is established in December 2014 by the PAM. The shelter has a maximum capacity of 500 individuals and provides accommodation, food and legal and medical assistance. A men's shelter may soon open providing similar services.</p>	
<b>SPONSORSHIP</b>		
<u>SPONSORSHIP AND CHANGING EMPLOYERS</u>	<p><b><u>With permission of employer</u></b> Transfers are approved by PAM. Usually even with permission of employer, transfer is permitted only after 1 year of continuous employment though this condition may be waived for a KWD 300 (US\$ 989)) fee. However, there appear to be additional restrictions for workers recruited to work on government contracts, and those working on farming, fishing, agriculture, and industry.<sup>9</sup></p> <p><b><u>Without permission of employer</u></b> Only 3 years after the issuance of the work permit.<sup>10</sup> If the worker wishes to transfer prior to the end of this period without the consent of the original employer, he will have to file a complaint with the Labour Relations Department of the PAM.</p> <p><b><u>Penalties for non-compliance</u></b> An employer can file an absconding charge against a worker, but this will not be registered by PAM until 90 days later.<sup>11</sup>  At the expiry of this period, the absconding charge is registered with the Ministry of Interior and the residency permit is revoked which subjects the worker to arrest, detention for up to 6 months, a fine up to KWD 600 (US\$ 1,979) and deportation. Deportation is usually accompanied with at least a 6 year entry ban to Kuwait.</p>	<p><b><u>With permission of employer</u></b> Transfer of sponsor is still managed by the Ministry of Interior. The transfer with permission appears possible but not confirmed.</p> <p><b><u>Without permission of employer</u></b> Transfer of sponsor is still managed by the Ministry of Interior. The transfer without permission appears possible only after end of 2 year contract.</p> <p><b><u>Penalty for non-compliance</u></b> An absconding charge may be placed on the worker 7 days after the employer's registration of the charge, unless the worker notifies the Domestic Workers Department or presents him/herself at the PAM shelter.  The worker may be subject to arrest, detention for up to 6 months, payment of a fine of up to KWD 600 (US\$ 1,979) and deportation. Deportation is usually accompanied with at least a 6 year entry ban to Kuwait.</p>
<u>LEAVING THE COUNTRY</u>	<p>No exit permit is required.</p>	

<sup>8</sup> Council of Ministers' Decision No. 614, (2018) on transfer of the powers stated in Law No. 68 of 2015 regarding domestic labor to the Minister of Social Affairs and Labor and General Manpower Authority. Although this decision was passed with immediate effect in May 2018, a postponement was later made deferring the change to 31 March 2019.

<sup>9</sup> Art 2, Kuwaiti Ministerial Order No. 227 of 2014 Amending Ministerial Order No. 200 of 2011 concerning the regulation of employment in the private sector.

<sup>10</sup> The worker is also required to provide three months' notice to the employer.

<sup>11</sup> (assuming that the worker has not contested the charge, or it has been dropped).